

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

GEORGE W. CARLISLE, JR.,)
)
Plaintiff,)
)
vs.) Case No. 4:06CV00678 AGF
)
MISSOURI DEPARTMENT)
OF TRANSPORTATION,)
)
Defendant.)

MEMORANDUM AND ORDER

This matter is before the Court on the unopposed motion of Defendant Missouri Department of Transportation (MoDOT) to dismiss the complaint against it because it is not a suable entity.

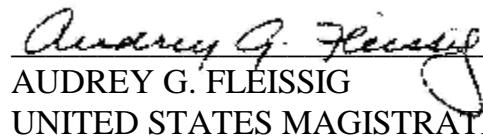
Plaintiff, an African-American male, filed this action pro se under Title VII of the Civil Rights Act of 1963, 42 U.S.C. § 2000e-2 (2000). He claims that MoDOT failed to hire him because of his age, gender and race. Plaintiff seeks both compensatory and punitive damages.

In the present motion to dismiss, filed pursuant to Federal Rule of Civil Procedure 12(b)(4), MoDOT asserts that it is not a legal entity capable of being sued. Defendant is correct in its assertion that the Missouri Highways and Transportation Commission, not MoDOT, is the proper legal entity capable of being sued. See Mo. Rev. Stat. § 226.100; Martin v. Mo. Highway & Transp. Dep't, 981 S.W.2d 577, 579 n.1 (Mo. Ct. App. 1998).

However, as is customary with a pro se plaintiff, the Court will not dismiss Plaintiff's case, but instead, will permit Plaintiff to amend his complaint to name the Missouri Highways and Transportation Commission as Defendant.

Accordingly,

IT IS HEREBY ORDERED that Plaintiff shall have 20 days from the date of this Order to file an amended complaint, naming the Missouri Highways and Transportation Commission as Defendant. Failure to do so without good cause may result in dismissal of this case without prejudice.


Audrey G. Fleissig
AUDREY G. FLEISSIG
UNITED STATES MAGISTRATE JUDGE

Dated this 30th day of August, 2006.